HOUSE BILL No. 1808

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DIGEST OF INTRODUCED BILL

Citations Affected: IC 3-11-15; IC 3-12-1.5; IC 3-14-3-25.

Synopsis: Voting systems. Requires that a voting system permit a voter to examine the paper record of the voter's votes to verify the voter's votes. Requires the election commission's precertification review of a voting system to include certain aspects of the voting system. Requires a voting system vendor to place certain software components in escrow. Requires a voting system vendor to notify the election commission and county election boards of certain information. Requires an audit of certain elections held during a general election to hand count certain statistical samples of votes cast during the election. Provides that a voting system vendor who knowingly or intentionally fails to provide certain information or place software items in escrow commits a Class D felony. Provides that after a voter has verified the votes on the paper record, the paper record is the official record of the votes. Repeals superseded statutes.

Effective: July 1, 2007.

Pierce, Avery

January 26, 2007, read first time and referred to Committee on Elections and Apportionment.

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First Regular Session 115th General Assembly (2007)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type.~~
  Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.
  Conflict reconciliation: Text in a statute in *this style type* or ~~*this style type*~~ reconciles conflicts between statutes enacted by the 2006 Regular Session of the General Assembly.

HOUSE BILL No. 1808

A BILL FOR AN ACT to amend the Indiana Code concerning elections.

Be it enacted by the General Assembly of the State of Indiana:

1   SECTION 1. IC 3-11-15-7 IS AMENDED TO READ AS
2 FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 7. (a) Each application
3 must be in writing, sworn to or affirmed by the applicant, under the
4 penalties of perjury, on a form prescribed by the commission, and must
5 satisfy the following requirements:
6   (1) Provide the name and address of the vendor submitting the
7   application.
8   (2) Provide the telephone number of the vendor.
9   (3) Provide the name, address, and telephone number of the
10   individual representing the vendor regarding the application.
11   (4) Provide the model name and number of the submitted voting
12   system, stating the hardware, firmware, and software version
13   numbers of the system.
14   (5) State whether the voting system is a direct record electronic
15   voting system or an optical scan ballot card voting system.
16   (6) Provide a description of the voting system and its capabilities,
17   including the following:

     (A) Photographs.

     (B) Engineering drawings.

     (C) Technical documentation.

     (D) Fail-safe and emergency backup information.

     (E) Environmental requirements for storage, transportation, and operation.

(7) Include an agreement to pay for the total costs of the examination.

(8) Provide documentation of the escrow of the voting system's software, firmware, source codes, and executable images with an escrow agent approved by the ~~election division.~~ **commission as provided in section 54 of this chapter.**

(9) Provide a functional description of any software components.

(10) Provide schematics or flowcharts identifying software and data file relationships.

(11) Describe the type of maintenance offered by the vendor.

(12) Provide the names, addresses, and telephone numbers of the vendor's maintenance providers.

(13) Provide a description of the training courses offered by the vendor for the voting system.

(14) Provide user manuals, operator and system manuals, and problem solving manuals.

(15) Provide a statement of the current and future interchangeability of all subcomponents of the voting system.

(16) Provide documentation from all independent testing authorities that have examined the system.

(17) Provide documentation from all election jurisdictions that have previously approved the system.

(18) Pay the application fee required under section 4 of this chapter.

  (b) If an application does not include any of the applicable requirements listed in subsection (a), those requirements must be filed with the election division before the application may be considered by the commission.

  (c) The commission's review of a voting system must include a review of at least all of the following regarding the voting system:

     (1) Security.

     (2) Application vulnerability.

     (3) Application code.

     (4) Wireless security.

     (5) Security policy and processes.

     (6) Security and privacy program management.

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1 **(7) Technology infrastructure and security controls.**
2 **(8) Security organization and governance.**
3 **(9) Operational effectiveness.**
4 SECTION 2. IC 3-11-15-22 IS AMENDED TO READ AS
5 FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 22. ~~Ballot card~~ **(a) A**
6 voting ~~systems~~ **system** must:
7 **(1)** rely on the retention of **paper** ballots as a redundant means of
8 verifying or auditing election results; ~~As a means of assuring~~
9 ~~accuracy in electronic voting systems, the unit must incorporate~~
10 ~~multiple memories in the machine itself and in its programmable~~
11 ~~memory devices.~~ **and**
12 **(2) comply with section 43 of this chapter.**
13 SECTION 3. IC 3-11-15-43 IS AMENDED TO READ AS
14 FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 43. (a) The audit record
15 provisions in this chapter are essential to the complete recording of
16 election operations and reporting of the vote tally. This list of audit
17 records must reflect all of the idiosyncrasies of a system.
18 (b) ~~As required by 42 U.S.C. 15481,~~ The voting system must **do the**
19 **following:**
20 (1) Produce a permanent paper record with a manual audit
21 capacity for the system. ~~and~~
22 **(2) Permit the voter to examine a paper record of the voter's**
23 **vote to verify the voter's votes. A voter may not keep the**
24 **paper record produced under this subsection.**
25 ~~(2)~~ **(3)** Provide the voter with an opportunity to change the ballot
26 or correct any error. ~~before~~
27 **(4) Provide that after the voter has verified the voter's votes,**
28 the permanent paper record is ~~produced.~~ **the official record of**
29 **the voter's votes.**
30 (c) The paper record ~~produced under subsection (b) must be made~~
31 ~~available as~~ **described in subsection (b)(4) is** an official record for a
32 recount or contest conducted with respect to any election in which the
33 voting system was used.
34 SECTION 4. IC 3-11-15-54 IS AMENDED TO READ AS
35 FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 54. **(a) The vendor**
36 **shall place in escrow with an independent escrow agent approved**
37 **by the commission all of the following:**
38 **(1) A complete copy of the source and executable code, build**
39 **scripts, object libraries, and application program interfaces.**
40 **(2) The following:**
41 **(A) Compiling instructions.**
42 **(B) Design documentation.**

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(C) Technical documentation.
(D) User documentation.
(E) Hardware and software specifications.
(F) Drawings, records, and data.
(G) All other documentation for the voting system.
(3) All other software relevant to the functionality, setup, configuration, and operation of the voting system.
(4) A list of programmers responsible for creating the software.
(5) Any other information required by the commission.
(b) The vendor must file an affidavit executed by the vendor's chief executive officer under the penalties for perjury stating the following:
(1) That the source code includes all relevant program statements in low level and high level languages.
(2) That the source code and other material in escrow is the same as being used in the vendor's voting systems used in Indiana.
The vendor's chief executive officer has a duty to ensure that the statements in the affidavit remain true on a continuing basis.
(c) The vendor shall notify the commission of any change in any item escrowed under subsection (a).
(d) The vendor shall notify the commission and the county election board of each county using the vendor's voting system of any of the following:
(1) Any decertification of the system by any state.
(2) Any defect of the system known to have occurred anywhere.
(3) Any relevant defect known to have occurred in any voting system similar to the vendor's voting system.
(e) Notwithstanding any other provision of this chapter, the software or source code of a voting system may not be changed while an election is being conducted or during the canvassing of the election's results.
SECTION 5. IC 3-12-1.5 IS ADDED TO THE INDIANA CODE AS A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]:
Chapter 1.5. Auditing Election Results
Sec. 1. This chapter applies to an election in which ballots are counted other than by hand.
Sec. 2. As used in this chapter, "appropriate statistical sample" refers to a sample of ballots or precincts randomly chosen to produce a statistically significant result.

1   **Sec. 3. (a) After each general election, the commission shall**
2   **conduct an audit of the election.**
3   **(b) An audit conducted under this section must hand count an**
4   **appropriate statistical sample of the paper ballots from the**
5   **following in each county:**
6   **(1) If the year is a year in which an election for electors of**
7   **President and Vice President of the United States is**
8   **conducted, that election.**
9   **(2) At least one (1) election for a state office.**
10   **(c) A sample shall be chosen of each of the following for each**
11 **county:**
12   **(1) All precincts within the county.**
13   **(2) All absentee ballots.**
14   **(3) All ballots cast at a vote center under IC 3-11-18.**
15   **Sec. 4. (a) The commission shall take any action:**
16   **(1) required by this chapter; and**
17   **(2) requiring statistical or sampling knowledge only after**
18   **consultation with a panel designated under subsection (b).**
19   **(b) Each commission member may designate an individual who**
20 **has a doctoral degree in statistics, or the equivalent of such a**
21 **degree, to serve on a statistical advisory panel to assist the**
22 **commission with decisions and analysis of data requiring**
23 **knowledge of statistics.**
24   **Sec. 5. Upon completion of an audit required by this chapter, the**
25 **commission shall issue an audit report that contains the**
26 **commission's findings, including findings on the reliability of**
27 **voting systems used in the election.**
28   SECTION 6. IC 3-14-3-25 IS ADDED TO THE INDIANA CODE
29 AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
30 1, 2007]: **Sec. 25. A voting system vendor that knowingly or**
31 **intentionally violates IC 3-11-15-54 commits a Class D felony.**
32   SECTION 7. THE FOLLOWING ARE REPEALED [EFFECTIVE
33 JULY 1, 2007]: IC 3-11-15-23; IC 3-11-15-37; IC 3-11-15-38.

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